

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

David U. Memeke  
508 West Arch St.  
Pottsville, PA 17901

Plaintiff

Case No.:

vs.

**JURY TRIAL DEMANDED**

PepsiCo Gatorade  
750 Oak Hill Road  
Mountain Top, PA 18707  
Defendant

Plaintiff, David U. Memeke, ("Memeke" or "Plaintiff"), by and through his attorneys, files this Complaint asserting claims under the Title VI of the Civil Rights Act of 1964, 42 U.S.C §2000e (hereinafter Title VI), the Americans with Disabilities Act, 42 U.S.C., §12101 et seq. (hereinafter ADA), the American with Disabilities Amendments Act, 42 U.S.C. §12101 et seq. (hereinafter ADAAA) and the Pennsylvania Human Relations Act, 43 P.S. §8951-963 (hereinafter PHRA). In support whereof, Plaintiff avers as follows:

**PARTIES**

1. Plaintiff, David U. Memeke is a disabled, black African from Nigeria, and is a former employee of defendant. Mr. Memeke resides a Schuylkill County,

Pennsylvania 508 W. Arch Street, Apt. 2F, Pottsville, Schuylkill County,  
Pennsylvania 17901.

2. Defendant, PepsiCo Gatorade, is a manufacturer of beverages and has a facility located at 750 Oak Hill Road, Mountain Top, Schuylkill County, Pennsylvania 18707, where Mr. Memeke was employed.

3. Mr. Memeke filed charges of discrimination with the United States Equal Employment Opportunity Commission (EEOC) on May 2, 2024 and received a right to sue letter thereafter.

4. This action is timely.

#### **Jurisdiction and Venue**

5. This Court has jurisdiction of Plaintiffs federal law claims pursuant to 28 U.S.C. "1331 and 1343.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because the unlawful practices alleged herein occurred within the jurisdiction of this Court.

#### **FACTUAL BACKGROUND**

7. Defendant employees greater than 20 full time employees at its Mountain Top, facility.

8. Mr. Memeke began working for Defendant on or about April 2<sup>nd</sup> 2023.

9. Defendant hired Plaintiff to be a Quality Control/Machine Operator

10. Defendant knew Plaintiff was male and knew that he was of a national origin other than the United States.

11. Plaintiff is disabled. His disability is Anxiety and depression Mr. Memeke informed Defendant of his disability on or about April 13, 2023.

12. On September 23, 2023, Defendant's lunch room was being renovated and a place for employees to eat was located outside the building during the renovations.

13. Employees were instructed to eat outdoors and not bring their food or dishes into the building after doing so.

14. Plaintiff took his lunch food with him outside the building to eat.

15. (A) Mr. Memeke originally planned to drop his lunch dish outside, but forgot to drop his lunch dish outside and mistakenly took his lunch plate into the building where he put it on his work station.

(B) This occurred because the man covering Mr. Memeke's work station during the lunch break had already left Mr. Memeke's work station. So, Memeke hurried to get back to work.

16. On September 25, 2023, Mr. Memeke was told that he was suspended pending an investigation into the lunch-dish discovered by Defendant on Memeke's work station.

17. In connection with his notice of his suspension, Plaintiff informed Defendant of a white female, nondisabled employee, who was not of foreign employee who was discovered eating candy on the work floor who was not suspended and not terminated for violating the same rule as Plaintiff and complained to Defendant that he was being subject to discrimination.

18. Plaintiff was nevertheless terminated thereby being subject to discrimination.

19. Unlike the white female who was eating candy on the floor, Mr. Memeke is a black man with a disability whose notional origin is Nigerian.

20. The EEOC was requested to cross file these proceedings with the PHRC so that these proceedings may also be considered under the Pennsylvania Human Relations Act.

## **COUNT 1**

### **DISABILITY DISCRIMINATION** **(APA, ADAAA and PHRA)**

21. Plaintiff repeats and re-alleges paragraphs I through 20 inclusive of the Complaint as though herein set forth at length.

22. Plaintiff is a Black male of Nigerian ancestry who has physical disabilities. These characteristics were clearly known to Defendant. Plaintiff was treated in a discriminatory manner because of his disabilities.

23. Plaintiff informed defendant of his disability and was thereafter terminated even though a non-disabled white female who committed a similar offense was not terminated.

24. Plaintiff suffered damages in the loss of wages, the injury to his reputation and the emotional pain and suffering caused by defendant's actions.

WHEREFORE, Plaintiff, David Memeke, requests a judgment be entered in his favor and against Defendant for compensatory and punitive damages, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00), including, but not limited to, lost 401K, lost benefits, backpay and attorney's fees and another relief the Court deems appropriate.

## **COUNT 2**

### **RACE DISCRIMINATION (TITLE VII and PHRA)**

25. Plaintiff repeats and re-alleges paragraphs I through 24 inclusive of the Complaint as though herein set forth at length.



26. Plaintiff is Black male of Nigerian ancestry who has physical disabilities, that were clearly known to Defendant and was treated in a discriminatory manner because of his race.

27. Defendant knew that Plaintiff is black and he was thereafter terminated even though a non-disabled white female who committed a similar offense was not terminated.

28. Plaintiff suffered damages in the loss of wages, the injury to his reputation and the emotional pain and suffering caused by defendant's actions.

WHEREFORE, Plaintiff, David Memeke, requests a judgment be entered in his favor and against Defendant for compensatory and punitive damages, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00), including, but not limited to, lost 401K, lost benefits, backpay and attorney's fees and any other relief the Court deems appropriate.

### **COUNT 3**

#### **SEX DISCRIMINATION (TITLE VII and PHRA)**

29. Plaintiff repeats and re-alleges paragraphs I through 28 inclusive of the Complaint as though herein set forth at length.

30. Plaintiff is Black male of Nigerian ancestry who has physical disabilities, that were clearly known to Defendant and was treated in a discriminatory manner because of his sex.

31. Defendant that Plaintiff is male and was thereafter terminated even though a non-disabled white female who committed a similar offense was not terminated.

32. Plaintiff suffered damages in the loss of wages, the injury to his reputation and the emotional pain and suffering caused by defendant's actions.

WHEREFORE, Plaintiff, David Memeke, requests a judgment be entered in his favor and against Defendant for compensatory and punitive damages, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00), including, but not limited to, lost 401K, lost benefits, backpay and attorney's fees and any other relief the Court deems appropriate.

#### **COUNT 4**

#### **NATIONALITY DISCRIMINATION (Title VII and PHRA)**

33. Plaintiff repeats and re-alleges paragraphs 1 through 32 inclusive of the Complaint as though herein set forth at length.

34. Plaintiff is Black male of Nigerian ancestry who has physical Nationality, that were clearly known to Defendant and was treated in a discriminatory manner because of his nationality.

35. Defenmant knew of Plaintiff's non-United States nationality and was thereafter terminated even though a non-disabled white female American who committed a similar offense was not terminated.

36. Plaintiff suffered damages in the loss of wages, the injury to his reputation and the emotional pain and suffering caused by defendant's actions.

WHEREFORE, Plaintiff, David Memeke, requests a judgment be entered in his favor and against Defendant for compensatory and punitive damages, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00), including, but not limited to, lost 401K, lost benefits, backpay and attorney's fees and any other relief the Court deems appropriate.

Respectfully submitted,

June 30, 2024

/s/Stephen V. Yarnell  
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**VERIFICATION**

I, David U. Memeke, hereby verify that I am the Plaintiff with respect to the forgoing Complaint. The facts stated therein are true to the extent of my knowledge, information and belief.

I understand that any false statements made herein are subject to the penalties of 18 Pa. C.S.A. §4906 regarding false statement made to authorities.

Dated: June 30, 2024

  
David U. Memeke